A

Discourse

OF A

Cavalier Gentleman,

ON THE

Divine and Humane Laws;

With respect to the

SUCCESSION.

By *Don A. B.*

Edinburgh

Printed in the Year MDCCVI.

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Christian Gentleman's

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A DISCOURSE OF A Cavalier Gentleman, ON THE Divine and Humane LAWS; with respect to the SUCCESSION.

My Lord Chancellor,

I do not use to speak in this House, neither to trouble your Lordships with my Speeches; but finding Matters of so great Consequence come before Us, I cannot in Conscience and Duty to my Country, bnt acquite my self before this Honourable Meeting of Parliament, in what I have to say.

And now, *my Lord*, as they use to say in the Wars, *That a Man that comes the length of a General Person, his Courage and Conduct is not to be doubted*; So *my Lord*, your Lordship who has been a practitioner in the Law, and is now come the length of being Chancellor of this Kingdom, I hope it is not to be doubted, but your Lordship has Law, understands Law, and will conform your self to what is true point of Law. And now finding, that the Fundamental Laws of this Lnad, are like to be overturn'd, which I understand to be only Two. The *first*, Is the Kingdom it self, and its ancient Name of *Scotland*, which was, has been, and is before ever there was any positive Law Writ, or put in

Print, ſo that by Cuſtom it hath obtain'd to be a Law: And therefore by the Opinion of all the greateſt Lawyers that have writ, it cannot be taken away by any Law or ſtatutory Act whatſomever, unleſs you confeſs the Foundation is ruin'd, and conſequently the Building muſt fall to the ground. And now to make it evident, that the Building falls to the ground, you are to take away the Right of having a Parliament, and the Right of our Peers ſitting in Parliament, who are born Members, and likeways of our Barrons and Burrows; therefore *my Lord*, I would have Us to advert to that great Command, *Not to remove ancient Land Marks, and the Curſe that is pronounced againſt them that do it*. And now, *my Lord*, I have ſit here, and heard a great many Debates betwixt Parties, and both of them go upon what may be the Intereſt of *Scotland* in this juncture; and for my ſelf, I do not profeſs to be well skill'd in the Matters of Traffique, therefore I leave thoſe to others who are better skill'd in theſe Affairs, which I've hear'd abundantly debated here, and am likewiſe ſatisfied by what printed Papers I have ſeen to that Effect, that the Ballance is to our Loſs.

And now to come to the Point, I find by what our greateſt Lawyers have left in their Writings, *That where Intereſt ſeems to have the one Hand, and what is Lawful, Juſt and Honeſt, to be done the other; they ſay by all their Suffrages, that Intereſt is not to be regarded, but what is Lawful, Juſt and Honeſt, is to carry the Ballance.* This is the Opinion of that worthy Man Sir *Thomas Craig* of judicious Memory, who brings the Suffrages of many of the *Roman* Lawyers that have Writ upon the Civil Law, for this his Opinion.

And We, *my Lord*, being to Debate and Judge on Point of Right, We muſt conſider our ſelves as before the Tribu-

nal

of God Almighty, who is the great Judge of Heaven and Earth, and who will be Juſt when he Judgeth, and found Right in all his Ways.

As to the ſecond Fundamental Law, which is the Royal Succeſſion to the Imperial Crown of this Kingdom: I find, *my Lord*, ſince the firſt of our Kings, there was never any of them ſince we were a Nation, Recogniz'd to be our Natural Princes, but by the Proximity of Blood, neither is there any poſitive Law for the ſame, but Cuſtom which has obtained to be a Law; only there has been ſome Laws which the Lawyers call *Juris Declaratoriæ* in relation to the Succeſſion; neither will you find amongſt the innumerable multitude of Expoſitors of the Law, one Lawyer ſo imprudent to contradict the manifeſt Verity of this Aſſertion, which is well digeſted. Now, *my Lord*, Our great and ancient Lawyers ſay, by the Right of Men, which is to ſay, the univerſal Conſent of Nature through all the World, the eldeſt Son is called to the Succeſſion of the Father's Crown, neither is there any Principality which is Hereditary, that has not this Precept as a Fundamental Law for its well being; neither is this called a poſitive Law, but is called the Right of Man-kind, which they call a Reſpect to the firſt born Male, and for a demonſtration of this, that there is a Reſpect due to the firſt Born, *Chriſt is called the firſt Born amongſt Men.* And now to come to the ſacred Scriptures, we find that there is no Sin that God Almighty has ſhowen his diſpleaſure more againſt, than he did againſt *Ahab*, for taking away *Naboth*'s Vine-yard, which is called *the Inheritance of his Fathers*, notwithſtanding he offered him Gold and Money, or a Field of Land for it, which was the Equivalent of it, *yet he ſaid it was the Inheritance of his Fathers*; and let Us take notice of his Judgment, *that he was ſhot dead in his Chariot*,

Chariot, and the Dogs licked his Blood: And now, *my Lord,* that we take away the the Inheritance of our Royal Prince, without ſo much as offering him an *Equivalent* for it, but let him ſeek his Bread from another King: *Is this the Law and the Prophets?* Therefore I ſay, *my Lord,* let Us come to the Point, to ſee who it is that as well by Divine as Humane Law, after the demiſe of our Auguſt Queen, ought to ſit upon the Imperial Throne of theſe Dominions, and this is a thing we ought to be determined in, by the Laws of God in particular: And we find in the ſacred Scriptures, *That when* Amaziah *come to be King, he ſlew all theſe that had murder'd his Father, but the Children he did not ſlay,* for the Text tells us, *he did as is writ in the Law of* Moſes, *which the Lord God Commanded, that he Father ſhould not dye for the iniquity of the Son, nor the Son for the iniquity of his Father; but every Man ſhould dye for his own ſin.*

And now, *my Lord,* if we look into our own Hiſtory, we will find that we have had many wicked Kings, but we will not find that ever the lawful Heir was excluded for his Fathers fault: And likewiſe when we read the ſacred Scriptures, we find that amongſt the Kings of *Judah,* there were many Idolatrous Kings, for example, *Aziah, He cauſed ſhut up the Doors of the Houſe of the Lord, did melt graven Images, and ſet up Altars in high Places, and did according to the Abominations of the Houſe of Iſrael; but when he came to dye his Son* Ezekiah *Reigned in his ſtead, and he cauſed call a ſolemn Feaſt, opened the Houſe of the Lord, and prayed to the Lord to forgive the ſins of the People; and they were forgiven.* Neither do we ever find by the ſacred Oracles, that ever any King was excluded from his Right for his Idolatry, but the Lord removed the wicked Kings when he found the Repentance of his own People deſerved it. And it is the Opinion

of

of that worthy Man Sir *Thomas Craige*, That if there be any Law that derogates from the Law of God, it muſt fall to ground, as if it had never been made, ſpoke nor writ.

The Right to the Royal Succeſſion is then, not a Knot fallen from the Heavens, nor a Law of Deſtiny, except your Mouths has found the ſecret of an Herb called *De Glauque* that has the vertue to make Gods: For it is the Opinion of that great *Juriſtconſult Bezoldus*, That a King or a Prince may be very Abſolute in his own Family, but he is altogether a Stranger in the Family of another, far leſs can he enter to make Laws, break Laws, Direct, or give Directions. and now, *my Lord*, I am certainly informed, that before the Princes of *Hannover* can have a pretenſion to this Royal Crown, there are at leaſt Thirty One or Thirty Two Royal Princes and Princeſſes, before that Family.

And firſt, will your Lordſhip, or any Man that is here ſitting in Parliament ſay, that if you had been Born and Bred in another Religion, or carry'd away forth of your own Kingdom in your Infancy, that you would have been a Proteſtant before you was informed. Therefore I ſay, *my Lord*, to come cloſs to the Point, as I have ſaid before, let us ſearch and ſee who it is that has the Right by the Laws of God, as well as by Humane Law, to ſit upon the Throne of this Imperial Kingdom; and let us at leaſt give them as fair play in Law, as we would do to any Particular Subject, which is to ſay, I mean, let Us emitt a Proclamation here firſt at the Mercat Croſs of *Edinburgh*, and then at the Peer of *Leith*, and deſire that within ſixty Days they may com or ſend, and give in their Claim to this Imperial Crown and let Us ſee whether or not this Prince or Princeſs w take the Coronation Oath, and Aſſert the Laws of the La as they are Eſtabliſh'd by Law, or at leaſt if they will

cept the Crown as it is at this time to be given; which I must confess, if I have looked and considered the Laws of God and Man, I cannot find that any King, or any other Man, can upon the account of his Religion, be debarr'd from what is his just *Right*, and if we have a Canon Law in the Protestant Religion, it is that of the 23d *Chap. of the Confession of Faith*, which affirms, *That Infidelity it self cannot make void the Power of the Civil Magistrate*; and this is since confirm'd by the Addresses of the Presbyterian Ministers to King *James* the VII. on his granting them an Indulgence. But *my Lord*, if you will pass by all this, by what Recompence will you cover the enorm Injustice of this Spuilzy, to take away the Title of a Prince of the Royal Blood? O what sacred and holy Equity is this! Has the World so far forgot the Practice of good Manners, that they can destroy such an ancient Royal Family, which has so much merited of Christianity? Heaven and Earth, yea, *Jerusalem* it self, will be a Witness against you. A seminary of Princes, though glorious Defenders of the Catholick Faith; an Image of the Ancient Valour; an Illustrious rest of Glory, that has ravished all Ages: And all this without any other Consideration or Motive, but a bare Interest of this Kingdom.

And now, *my Lord*, to come to a Conclusion, let Us consider that great Command given Us by the wisest of Men, *Solomon* I mean, which is, *Fear God and Honour the King, and medle not with those that are given to Changes; for their Calamity cometh suddenly, and their Destruction like a whirlwind.*

FINIS

Brussü Oratio

Lockhart 63

No 2

The nine pages are the contents of a pamphlet entitled a Discourse of a Covalier & Gentleman on the Laws with respect to the Succession - By Don A.B. Printed 1706

Brussii Oratio

See No. 9. in the Vol.

AD

MACKAIUM:

BRussius ad celsæ fanum præmittitur Alvæ
Intra castra videt tuta statione teneri,
Constitit adversi sublimi vertice saxi
Increpuitq; Ducem, dictisq; instigat acerbis:
Tu ne Ille arctois Mackaius ortus in oris?
Perfidus in Patriam Qui pro Prædone nefanda
Bella geris, Patriæq; patrem civilibus armis
Opprimis, O stygii Pœnis digne omnibus Orci!
Et Malefide Deo, & Patriæ Regiq; Rebellis;
Non impune diu lætabere crimine tali:
Castra miser Batavi Sceleratæ relinque Tyranni
Et sua redde suis, & Cæsaris arma capesse,
Aut si rem dubiæ mavis committere Pugnæ,
Hoste siste loco, & campo te crede patenti:
Mox Equitum celeres elata voce cohortes
Affatur, notosq; vocat blæsa ore sodales,
Atq; ait: O socii quondam pia signa secuti
Cæsaris at Domino nunc transfuga turba relicto,

arma

Arma quid attonitum Prædonis fertis in Arctos?
Inq; Coledonium convertitis impia Regem
Agmina? Degeneres quæ tanta ignavia Mentes
Possidet? O servum Pecus ingens Dedecus ævi!
Quærite nunc latebras, aut Præpite fidite cursu
Non erit huic scleri Murus satis iste tuendo:
Dundius *hæc ferro qui crimina vindicet, Instat*
Agmine, Meq; olim Ductorem agnoscite vestrum
Si quis in ore Pudor Virtusve in corde residit
Flectite signa Viri, nostrisq; accedite castris
Sic fatus, Responsa Viro fumantia reddit
Scaurius, horrendis accenso pulvere bombis;
Brussius *igniyomis contra tonatimpiger armis.*
&c.

Don A. B's. Speech to *Mackay.*

NEar *Ava-Kirk*, upon a rising Hill,
Securely Camp't, the Rebells did ly still,
While single *Bruce* impatient of delay
Ascends the Mount, their Armies to defy,
Like *Jonathan* upon an adverse Rock
With daring words he does their chief provoke,
Art thou *Mackay* whose ingrateful Breath,
Inspir'd a mass of our cold Northern-Earth,

BRITISH MUSEUM

Per-

Perfidious to thy Country, and did chuſe
A Robbers part, like Traitor, to eſpouſe,
Leading his Armies 'gainſt thy native Land,
Whilſt thou its natural Father do'ſt withſtand;
What curſes Hell can upon Rebells bring,
Are juſtly thine, falſe to thy God and King,
Thy Villany can not protect, long time
Therefore repent, and expiat thy Crime,
Deſert your *Dutch* Uſurper and reſign,
Your ſelf unto the Mercy of your King;
Render to *Cæſar* what is *Cæſar*'s due,
And fight for him that he may pardon you;
But if thy Treaſons be ſo deeply grain'd,
That with more guilt thy Conſcience muſt be ſtain'd,
Then be ſo ſtout in open field to try
Whoſe cauſe ſhall be approv'd by Victory.

Having thus ſpoke the chief, his next Addreſs,
Was to his *quondam* fellow Souldiers
With Lungs expanded, and liſping Tongue he crys,
All ye who follow'd *Cæſar*'s deſtinies,
And heretofore did glory in his Shield,
Altho that now ye've baſely chang'd the Field;
Bluſh for to think that now ye trample down,
Your Mothers Glory, and your Fathers Crown,
And for a Traitours Honour pawns your own;

O! ye degenerate Souls, and ſtupid Beaſts
Whoſe baſeneſs future Ages will, and this deteſtes;
Go hide your guilty Faces, or make haſte
To fly the Vengeance that purſues you faſt,
Your Walls and Ditches can no Rampart be,
'Gainſt the approaching Arms of brave *Dundee*,
Whoſe Sword revenges injur'd Majeſty.

Now if your Hears be'nt harder, then your Steel,
If in your Breaſts yet any ſpark you feel,
Of dying Virtue, I conjure you rowſe,
Caſt off the magick from your duſky Brows,
Deck them again with Laurells: know, the Man,
Who now invites you, was your Chiftain;
Come now dear fellows let us join again,
Turn to the Camps of our right Soveraign.

Brave Bruce *the Rebells thus beſpoke,*
Baſe Scaurius *returns his words in Smoke,*
But Bruce *acquainted with the Dialect,*
Return'd his ſalve with the ſame reſpect.

FINIS.

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